

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Charlene Lovett,)
Plaintiff,) C/A No.: 4:05-2674-MBS
vs.)
Jo Anne B. Barnhart, Commissioner of)
Social Security,)
Defendant.)

)

OPINION AND ORDER

Plaintiff Charlene Lovett filed an application for disability insurance benefits on October 3, 2001 alleging disability commencing June 27, 2001 because of low back pain and left extremity numbness. On August 1, 2001, Plaintiff submitted a claim for supplemental security income payments. The applications were denied initially and upon reconsideration. Plaintiff requested a hearing before an administrative law judge (“ALJ”). The ALJ held a hearing on January 28, 2003. On April 25, 2003, the ALJ issued a decision that Plaintiff was not entitled to a period of disability and disability insurance benefits under sections 216(i) and 223, respectively, of the Social Security Act, and that she was not eligible for supplemental security income payments under sections 1602 and 1614(a)(3)(A) of the Act. On March 12, 2004, the Appeals Council vacated the decision and remanded the case to the ALJ for further development and consideration. On December 8, 2004, the ALJ filed a decision again determining that Plaintiff was not entitled to a period of disability and disability insurance benefits under sections 216(i) and 223, respectively, of the Social Security Act, and that she was not eligible for supplemental security income payments under sections 1602 and 1614(a)(3)(A) of the Act. The decision of the ALJ became the “final decision” of the Commissioner on January 29, 2005, after the Appeals Council determined that there was no basis for granting

Plaintiff's request for review. Plaintiff thereafter brought the within action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the "final decision" of the Commissioner.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for a Report and Recommendation. On February 14, 2007, the Magistrate Judge filed a Report and Recommendation in which he determined that the ALJ failed to comply with the Appeals Council's remand order. Thus, according to the Magistrate Judge, there was not substantial evidence to uphold the final decision. The Magistrate Judge recommended that the case be remanded for additional review. No party filed objections to the Report and Recommendation.

The court is charged with making a *de novo* determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and the record in this case, the court adopts the Report and Recommendation and incorporates it herein by reference. Accordingly, the Commissioner's decision is reversed pursuant to sentence four of 42 U.S.C. § 405(g) and the case is remanded to the Commissioner for further administrative action as set forth herein and in the Report and

Recommendation.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

United States District Judge

Columbia, South Carolina

March 8, 2007